

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

DONALD BANKS

Claimant

VS.

BABCOCK & WILCOX CONSTRUCTION CO., INC.

Respondent

AND

CIGNA INSURANCE COMPANY

Insurance Carrier

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Docket No. 217,354

ORDER

Claimant appeals from the Award entered by Administrative Law Judge Robert H. Foerschler on July 1, 1998. The Appeals Board heard oral argument on January 19, 1999 in Kansas City, Kansas.

APPEARANCES

Stephen P. Doherty of Kansas City, Kansas, appeared on behalf of claimant. Michael W. Downing of Kansas City, Missouri, appeared on behalf of respondent and its insurance carrier.

RECORD AND STIPULATIONS

The Appeals Board has considered the record and adopted the stipulations listed in the Award.

ISSUES

Claimant, a member of the Plumbers and Steam Fitters Union Local 664 in Frontenac, Kansas, was injured July 17, 1996, in Jackson County, Missouri. The ALJ held the Kansas Act did not apply and claimant was denied an award of benefits. Citing K.S.A. 44-506, the ALJ found Kansas was not claimant's principal place of employment and that the contract of employment was not made within this state. Whether Kansas has jurisdiction over the injury was the determinative question before the ALJ. But the parties

agreed that the Appeals Board should decide the remaining issues not reached by the ALJ should it decide the jurisdiction question in claimant's favor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the briefs, the Appeals Board finds the Award by the ALJ should be affirmed. The Board does so for the reasons stated in the findings and conclusions expressed in the Award by the ALJ. The Board hereby approves those findings and conclusions and adopts them as its own.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Robert H. Foerschler dated July 1, 1998, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of February 1999.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Stephen P. Doherty, Kansas City, KS
Michael W. Downing, Kansas City, MO
Robert H. Foerschler, Administrative Law Judge
Philip S. Harness, Director